

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TEXARKANA DIVISION**

ANDREW T. (“ANDY”) TRAMPUS,
Plaintiff,

V.

CITY OF MOUNT VERNON, TEXAS,
TINA ROSE, in her individual capacity
And SAUNDRA DUNN, in her individual
capacity,
Defendants.

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CIVIL ACTION NO: _____

JURY DEMANDED

DEFENDANTS’ NOTICE OF REMOVAL

COME NOW THE CITY OF MT. VERNON, TEXAS, TINA ROSE (in her individual capacity) and SAUNDRA DUNN (in her individual capacity), DEFENDANTS herein, and file this Defendants’ Notice of Removal pursuant to 28 U.S.C. § 1446(a) in the above styled and numbered case, and in support thereof would respectfully show the Court as follows:

A. Introduction

1. Plaintiff is Andrew T. (“Andy”) Trampus; Defendants are City of Mt. Vernon, Texas, Tina Rose, in her individual capacity, and Sandra Dunn, in her individual capacity.

2. On July 27, 2011, Plaintiff sued Defendants alleging various violations of Plaintiff’s civil rights under 42 U.S.C. § 1983, along with various state causes of action in the 62nd Judicial District Court of Franklin County, Texas.

3. Defendants were served with notice of the suit on July 28, 2011. Defendants file this notice of removal within the 30-day time period required by 28 U.S.C. §1446(b). *Bd. of Regents of Univ. of Tex. Sys. v. Nippon Tel. & Tel. Corp.*, 478 F.3d 274, 278 (5th Cir. 2007).

B. Basis for Removal

4. Removal is proper because:

- (A) Plaintiff's suit involves a federal question. 28 U.S.C. §§1331, 1441(b); *Grable & Sons Metal Prods., Inc. v. Darue Eng'g & Mfg.*, 545 U.S. 308, 312 (2005); *Broder v. Cablevision Sys. Corp.*, 418 F.3d 187, 194 (2d Cir. 2005); *Peters v. Union Pac. R.R.*, 80 F.3d 257, 260 (8th Cir. 1996). Specifically, Plaintiff's claims arise under 42 U.S.C. §1983 for the alleged violation of Plaintiff's "Due Process Rights" as guaranteed by the United States Constitution, and the deprivation of his "property interest" related to the termination of Plaintiff's employment with the City of Mt. Vernon.

In addition, Plaintiff has asserted a similar claim, also arising under 42 U.S.C. § 1983, for the alleged violation of Plaintiff's "Due Process Rights" as guaranteed by the United States Constitution related to the termination of his employment with the City of Mt. Vernon, Texas, and the alleged deprivation of his "liberty interest."

- (B) Removal to federal court is specifically authorized by 28 U.S.C. §1441(b)

5. All Defendants who have been properly served consent to the removal of this case to federal court. *Harper v. AutoAlliance Int'l, Inc.*, 392 F.3d 195, 201-02 (6th Cir. 2004).

6. Copies of all pleadings, process, orders, and other filings in the state-court suit are attached to this notice as required by 28 U.S.C. §1446(a).

7. Venue is proper in this district under 28 U.S.C. §1441(a) because the state court where the suit has been pending is located in this district.

8. Defendant will promptly file a copy of this notice of removal with the clerk of the state court where the suit has been pending.

C. Jury Demand

9. Defendants hereby demand a jury trial. A jury demand is being filed simultaneously with this notice of removal.

D. Conclusion

10. The present case is brought by Plaintiff for alleged violations of his civil rights in accordance with 42 U.S.C. § 1983. As such it involves a federal question over which this Court has jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1441 (b). All Defendants have joined in the removal, and venue is proper in the Eastern District of Texas – Texarkana Division. For these reasons, defendant asks the court to remove the suit to the Eastern District of Texas – Texarkana Division.

E. Prayer

WHEREFORE, PREMISES CONSIDERED, Defendants pray that the present case be assigned to the trial docket in the Eastern District of Texas – Texarkana Division, and for such other relief to which Defendants may show themselves entitled.

Dated: August 26, 2011

Respectfully submitted,

/s/ Lance Vincent

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**ATTORNEYS FOR DEFENDANTS
CITY OF MOUNT VERNON, TEXAS,
And TINA ROSE, in her individual
capacity, AND SAUNDRA DUNN, in
her individual capacity**

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the above and foregoing document has been served on August 26, 2011 to all counsel of record who are deemed to have consented to electronic service via the Court's CM/ECF system per Local Rule CV-5(a)(3) and by certified mail return receipt requested to the following:

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/s/ Lance Vincent